S T A T E O F N E W Y O R K

6065

2015-2016 Regular Sessions

I N S E N A T E

October 14, 2015

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the criminal procedure law and the penal law, in relation to gun violence restraining orders and gun seizure warrants

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The criminal procedure law is amended by adding a new article 735 to read as follows:

ARTICLE 735

GUN VIOLENCE RESTRAINING ORDERS AND GUN SEIZURE WARRANTS

SECTION 735.10 DEFINITIONS.
735.20 ISSUANCE OF GUN VIOLENCE RESTRAINING ORDER.
735.30 ISSUANCE OF GUN SEIZURE WARRANT.
735.40 COURT HEARING.
735.50 REQUEST FOR RENEWAL OF ORDER.
735.60 OFFENSES.

S 735.10 DEFINITIONS.

AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "GUN SEIZURE WARRANT" SHALL MEAN A COURT ORDER REGARDING A PERSON WHO IS SUBJECT TO A GUN VIOLENCE RESTRAINING ORDER AND WHO IS KNOWN TO OWN OR POSSESS ONE OR MORE FIREARMS, RIFLES, OR SHOTGUNS AND ANY AMMUNITION THAT DIRECTS A LAW ENFORCEMENT OFFICER TO SEIZE ANY FIREARMS, RIFLES, OR SHOTGUNS AND ANY AMMUNITION IN THE POSSESSION OF THE PERSON AND TO BRING THE UNLOADED FIREARMS, RIFLES, OR SHOTGUNS AND ANY AMMUNITION BEFORE THE JUDGE ISSUING SUCH ORDER.

2. "GUN VIOLENCE RESTRAINING ORDER" SHALL MEAN A COURT ORDER PROHIBITING A PERSON FROM PURCHASING, OWNING, POSSESSING, CONTROLLING, OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION FOR A PERIOD OF ONE YEAR.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 735.20 ISSUANCE OF GUN VIOLENCE RESTRAINING ORDER.

1. ANY PERSON MAY SUBMIT AN APPLICATION TO THE COURT SETTING FORTH THE FACTS AND CIRCUMSTANCES NECESSITATING THE ISSUANCE OF A GUN VIOLENCE RESTRAINING ORDER. THE CHIEF ADMINISTRATOR OF THE COURTS SHALL PRESCRIBE THE MANNER AND FORM OF THE APPLICATION PURSUANT TO SECTION 10.40 OF THIS CHAPTER. SUCH FORM SHALL INCLUDE INQUIRY AS TO WHETHER THE APPLICANT KNOWS OR HAS REASON TO BELIEVE THAT THE SUBJECT OF THE APPLICATION HAS ACCESS TO FIREARMS, RIFLES, OR SHOTGUNS, AND ANY AMMUNITION, AND IF SO, A REQUEST THAT THE APPLICANT LIST OR DESCRIBE SUCH FIREARMS, RIFLES, OR SHOTGUNS, AND ANY AMMUNITION AND RESPECTIVE LOCATIONS THEREOF, WITH AS MUCH SPECIFICITY AS POSSIBLE.

2. A GUN VIOLENCE RESTRAINING ORDER SHALL BE ISSUED TO PROHIBIT A PERSON FROM PURCHASING, OWNING, POSSESSING, CONTROLLING, OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN, AND ANY AMMUNITION IF AN AFFIDAVIT, SIGNED BY THE APPLICANT UNDER OATH, AND ANY ADDITIONAL INFORMATION PROVIDED TO THE COURT DEMONSTRATES, TO THE SATISFACTION OF THE COURT, THAT THE PERSON POSES A SIGNIFICANT RISK OF PERSONAL INJURY TO HIMSELF, HERSELF, OR OTHERS BY PURCHASING, OWNING, POSSESSING, CONTROLLING, OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN, AND ANY AMMUNITION.

3. PRIOR TO THE ISSUANCE, DENIAL, OR RENEWAL OF A GUN VIOLENCE RESTRAINING ORDER, THE COURT SHALL ENSURE THAT A SEARCH IS OR HAS BEEN CONDUCTED TO DETERMINE IF THE SUBJECT OF THE APPLICATION HAS ANY PRIOR CRIMINAL CONVICTION FOR A VIOLENT OR SERIOUS FELONY AS DEFINED BY SECTION 70.02 OF THE PENAL LAW; HAS ANY MISDEMEANOR CONVICTION INVOLVING DOMESTIC VIOLENCE, WEAPONS, OR OTHER VIOLENCE; HAS ANY OUTSTANDING WARRANT; IS CURRENTLY ON PAROLE OR PROBATION; HAS A REGISTERED FIREARM, RIFLE, OR SHOTGUN; OR HAS ANY PRIOR RESTRAINING ORDER OR ANY VIOLATION OF A PRIOR RESTRAINING ORDER. THE SEARCH SHALL BE CONDUCTED OF ALL RECORDS AND DATABASES READILY AVAILABLE AND REASONABLY ACCESSIBLE TO THE COURT, INCLUDING, BUT NOT LIMITED TO, THE FOLLOWING: (1) THE FEDERAL SUPERVISED RELEASE FILE; (2) THE NEW YORK STATE PISTOL PERMIT DATABASE; (3) THE FEDERAL BUREAU OF INVESTIGATION'S NATIONAL DATABASE; (4) THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; (5) LOCALLY MAINTAINED CRIMINAL HISTORY RECORDS OR DATABASES; (6) THE STATEWIDE LICENSE AND RECORD DATABASE PURSUANT TO SECTION 400.02 OF THE PENAL LAW; (7) ANY OTHER RELEVANT DATABASES THAT COLLECT INFORMATION PERTAINING TO POSSESSION OF A FIREARM. HOWEVER, A RECORD OR DATABASE NEED NOT BE SEARCHED IF THE INFORMATION AVAILABLE IN THAT RECORD OR DATABASE CAN BE OBTAINED AS A RESULT OF A SEARCH CONDUCTED IN ANOTHER RECORD OR DATABASE.

4. IN DETERMINING WHETHER A GUN VIOLENCE RESTRAINING ORDER SHOULD BE ISSUED, THE JUDGE MAY EXAMINE, UNDER OATH, THE PERSON SEEKING THE ORDER AND ANY WITNESSES THE PERSON PRODUCES.

(A) IN DETERMINING WHETHER GROUNDS FOR A GUN VIOLENCE RESTRAINING ORDER EXISTS, THE JUDGE SHALL CONSIDER ANY RELEVANT FACTORS INCLUDING, BUT NOT LIMITED TO:

(I) ANY RECENT THREAT OR ACT OF VIOLENCE BY THE PERSON DIRECTED TOWARD HIMSELF, HERSELF, OR OTHERS;

(II) ANY RECENT VIOLATION OF A RESTRAINING ORDER;

(III) ANY CONVICTION FOR A WEAPONS OFFENSE;

(IV) THE RECKLESS USE, DISPLAY, OR BRANDISHING OF A FIREARM, RIFLE, OR SHOTGUN BY THE PERSON;

(V) THE HISTORY OF USE, ATTEMPTED USE, OR THREATENED USE OF PHYSICAL FORCE BY THE PERSON AGAINST ANY OTHER PERSON;

(VI) ANY PRIOR ARREST OF THE PERSON FOR A CRIME OR OFFENSE;

(VII) ANY HISTORY OF A VIOLATION BY THE PERSON OF A RESTRAINING ORDER;
(VIII) EVIDENCE OF RECENT OR ONGOING ABUSE OF CONTROLLED SUBSTANCES OR ALCOHOL BY THE PERSON; OR
(IX) EVIDENCE OF RECENT ACQUISITION OF FIREARMS, RIFLES, SHOTGUNS, OR OTHER DEADLY WEAPONS OR ANY AMMUNITION THEREFOR.
(B) THE AFFIDAVIT SHALL SET FORTH THE FACTS ESTABLISHING THE GROUNDS OF THE APPLICATION, OR PROBABLE CAUSE FOR BELIEVING THAT THEY EXIST. IN LIEU OF THE REQUIRED WRITTEN AFFIDAVIT, THE JUDGE MAY TAKE AN ORAL STATEMENT UNDER OATH.
5. IF THE JUDGE IS SATISFIED THAT THERE IS PROBABLE CAUSE TO BELIEVE IN THE VERACITY OF THE APPLICATION, THE JUDGE SHALL ISSUE A GUN VIOLENCE RESTRAINING ORDER. SUCH ORDER SHALL BE ISSUED ON THE SAME DAY THAT THE APPLICATION IS SUBMITTED TO THE COURT, UNLESS THE PETITION IS FILED TOO LATE IN THE DAY TO PERMIT EFFECTIVE REVIEW, WHICH MAY INCLUDE PROMPT EXAMINATIONS UNDER SUBDIVISION SIX OF THIS SECTION, IN WHICH CASE, THE ORDER SHALL BE ISSUED OR DENIED ON THE NEXT DAY OF JUDICIAL BUSINESS IN SUFFICIENT TIME FOR THE ORDER TO BE FILED THAT DAY WITH THE CLERK OF THE COURT.
6. A GUN VIOLENCE RESTRAINING ORDER SHALL INCLUDE:
(A) A STATEMENT OF THE GROUNDS ASSERTED FOR THE ORDER;
(B) THE DATE AND TIME THE ORDER EXPIRES;
(C) THE ADDRESS OF THE SUPREME COURT FOR THE COUNTY IN WHICH THE RESTRAINED PARTY RESIDES; AND
(D) A STATEMENT TO THE RESTRAINED PERSON STATING: THE TIME AND DATE THAT THE ORDER EXPIRES; THAT THE PERSON MAY NOT OWN, POSSESS, PURCHASE, OR RECEIVE, OR ATTEMPT TO PURCHASE OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN OR ANY AMMUNITION WHILE THIS ORDER IS IN EFFECT; THAT THE PERSON IS ENTITLED TO SUBMIT ONE WRITTEN REQUEST FOR A HEARING AT ANY TIME DURING THE EFFECTIVE PERIOD OF THE ORDER FOR AN ORDER PERMITTING THE PERSON TO OWN, POSSESS, PURCHASE, OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN OR ANY AMMUNITION; THAT THE PERSON MAY SEEK THE ADVICE OF AN ATTORNEY AS TO ANY MATTER CONNECTED WITH THE ORDER; AND THAT THE ATTORNEY SHOULD BE CONSULTED PROMPTLY SO THAT THE ATTORNEY MAY ASSIST THE PERSON IN ANY MATTER CONNECTED WITH THE ORDER.
(E) A FORM TO BE COMPLETED AND SIGNED BY THE RESTRAINED PERSON AT THE TIME OF SERVICE OF THE GUN VIOLENCE RESTRAINING ORDER WHICH ELICITS, UNDER PENALTY OF PERJURY, A LIST OF ALL FIREARMS, RIFLES, OR SHOTGUNS AND ANY AMMUNITION IN HIS OR HER POSSESSION OR UNDER HIS OR HER OWNERSHIP OR CONTROL, AND THE PARTICULAR LOCATION OF EACH FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION LISTED.
7. WHEN SERVING A GUN VIOLENCE RESTRAINING ORDER, THE LAW ENFORCEMENT OFFICER SHALL INFORM THE PERSON THAT THE PERSON MAY SUBMIT ONE WRITTEN REQUEST FOR A HEARING, PURSUANT TO SUBDIVISION EIGHT OF SECTION 735.40 OF THIS ARTICLE, AT ANY TIME DURING THE EFFECTIVE PERIOD OF THE ORDER AND PROVIDE THE PERSON WITH A FORM TO REQUEST THE HEARING.
S 735.30 ISSUANCE OF GUN SEIZURE WARRANT.
1. IF THERE IS PROBABLE CAUSE TO BELIEVE THAT A PERSON WHO HAS BEEN ISSUED A GUN VIOLENCE RESTRAINING ORDER POSSESSES OR OWNS A FIREARM, RIFLE, OR SHOTGUN OR ANY AMMUNITION THE JUDGE SHALL ISSUE A GUN SEIZURE WARRANT TO THE APPROPRIATE LAW ENFORCEMENT OFFICER DIRECTING THE OFFICER TO SEIZE ANY SPECIFIED FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION AND TO RETAIN THE FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION SUBJECT TO THE ORDER OF THE COURT.
2. A GUN SEIZURE WARRANT SHALL BE ISSUED UPON PROBABLE CAUSE, SUPPORTED BY AN AFFIDAVIT, NAMING OR DESCRIBING WITH REASONABLE SPECIFICITY THE FACTS AND CIRCUMSTANCES JUSTIFYING THE COURT ORDER AND LISTING

ANY FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION TO BE SEIZED PURSUANT TO THE COURT ORDER.

3. A FIREARM, RIFLE, OR SHOTGUN DESCRIBED IN THE GUN SEIZURE WARRANT AND ANY AMMUNITION MAY BE TAKEN FROM ANY PLACE, OR FROM ANY PERSON IN WHOSE POSSESSION THE FIREARM, RIFLE, OR SHOTGUN OR AMMUNITION MAY BE.

4. WHEN A LAW ENFORCEMENT OFFICER TAKES PROPERTY UNDER A GUN SEIZURE WARRANT, THE OFFICER SHALL GIVE A RECEIPT FOR THE PROPERTY TAKEN, SPECIFYING IT IN DETAIL, TO THE PERSON FROM WHOM IT WAS TAKEN. IN THE ABSENCE OF A PERSON, THE OFFICER SHALL LEAVE THE RECEIPT IN THE PLACE WHERE THE PROPERTY WAS FOUND.

5. IF THE LOCATION TO BE SEARCHED DURING THE EXECUTION OF A GUN SEIZURE WARRANT IS JOINTLY OCCUPIED BY MULTIPLE PARTIES AND A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION LOCATED DURING THE EXECUTION OF THE GUN SEIZURE WARRANT IS OWNED BY A PERSON OTHER THAN THE PERSON IN THE GUN SEIZURE WARRANT, THE FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION SHALL NOT BE SEIZED IF THE FIREARM, RIFLE, OR SHOTGUN AND AMMUNITION IS STORED IN A MANNER THAT THE PERSONS NAMED IN THE GUN SEIZURE WARRANT DOES NOT HAVE ACCESS TO OR CONTROL OF THE FIREARM, RIFLE, OR SHOTGUN AND AMMUNITION AND THERE IS NO EVIDENCE OF UNLAWFUL POSSESSION OF THE FIREARM, RIFLE, OR SHOTGUN OR AMMUNITION BY THE OWNER.

6. IF THE LOCATION TO BE SEARCHED DURING THE EXECUTION OF A GUN SEIZURE WARRANT IS JOINTLY OCCUPIED BY MULTIPLE PARTIES AND A GUN SAFE THAT IS OWNED BY A PERSON OTHER THAN THE PERSON NAMED IN THE GUN SEIZURE WARRANT IS LOCATED THEREIN, THE CONTENTS OF THE GUN SAFE SHALL NOT BE SEARCHED EXCEPT IN THE OWNER'S PRESENCE, OR WITH THE OWNER'S CONSENT, OR UNLESS A VALID SEARCH WARRANT HAS BEEN OBTAINED.

S 735.40 COURT HEARING.

1. EXCEPT AS PROVIDED IN SUBDIVISION SEVEN OF THIS SECTION, NO LATER THAN TWENTY-ONE DAYS AFTER THE EXECUTION OF A GUN VIOLENCE RESTRAINING ORDER AND A GUN SEIZURE WARRANT, IF APPLICABLE, THE COURT THAT ISSUED THE ORDER AND SEIZURE WARRANT SHALL HOLD A HEARING TO DETERMINE WHETHER THE PERSON WHO IS THE SUBJECT OF THE ORDER MAY POSSESS, OWN, PURCHASE, OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION AND, WHEN APPLICABLE, WHETHER A SEIZED FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION SHOULD BE RETURNED TO THE PERSON NAMED IN THE WARRANT.

2. AT THE HEARING, THE STATE SHALL HAVE THE BURDEN OF PROVING, BY CLEAR AND CONVINCING EVIDENCE, THAT THE PERSON POSES A SIGNIFICANT RISK OF PERSONAL INJURY TO HIMSELF, HERSELF, OR OTHERS BY PURCHASING, OWNING, POSSESSING, CONTROLLING OR ATTEMPTING TO PURCHASE OR RECEIVE THE FIREARM, RIFLE, OR SHOTGUN, AND ANY AMMUNITION.

3. IF, AT THE HEARING, THE PERSON IS FOUND TO POSE A SIGNIFICANT RISK OF PERSONAL INJURY TO HIMSELF, HERSELF, OR OTHERS BY PURCHASING, OWNING, POSSESSING, OR CONTROLLING A FIREARM, RIFLE, OR SHOTGUN THE FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION SEIZED PURSUANT TO THE WARRANT SHALL BE RETAINED BY THE LAW ENFORCEMENT AGENCY FOR THE DURATION OF THE ORDER OR UNTIL OWNERSHIP OF THE FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION IS TRANSFERRED TO A LICENSED GUN DEALER. THE PERSON SHALL BE PROHIBITED FROM PURCHASING, OWNING, POSSESSING, OR CONTROLLING A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN, AND ANY AMMUNITION FOR A PERIOD OF ONE YEAR.

4. THE COURT SHALL NOTIFY THE DIVISION OF CRIMINAL JUSTICE SERVICES OF THE GUN VIOLENCE RESTRAINING ORDER NO LATER THAN THE NEXT BUSINESS DAY AFTER ISSUING THE ORDER. THE COURT ALSO SHALL NOTIFY THE DEPARTMENT OF ANY ORDER RESTORING THE PERSON'S ABILITY TO OWN OR POSSESS FIREARMS, RIFLES, OR SHOTGUNS, AND ANY AMMUNITION NO LATER THAN THE NEXT BUSINESS

DAY AFTER ISSUING THE ORDER TO RESTORE THE PERSON'S RIGHT TO OWN OR POSSESS ANY TYPE OF FIREARM, RIFLE, OR SHOTGUN, AND ANY AMMUNITION THAT MAY BE LAWFULLY OWNED AND POSSESSED. ANY NOTICE OR REPORT SUBMITTED PURSUANT TO THIS SUBDIVISION SHALL BE IN AN ELECTRONIC FORMAT, IN A MANNER PRESCRIBED BY THE DIVISION OF CRIMINAL JUSTICE.

5. IF THE COURT FINDS THAT THE STATE HAS NOT MET THE REQUIRED STANDARD OF PROOF, THE FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION SEIZED PURSUANT TO THE WARRANT SHALL BE RETURNED TO THE PERSON.

6. IF THE PERSON IS PROHIBITED BY LAW FROM PURCHASING, OWNING, POSSESSING, OR CONTROLLING A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION FOR A PERIOD OF ONE YEAR OR MORE BY ANY OTHER PROVISION OF STATE OR FEDERAL LAW, A HEARING PURSUANT TO THIS SECTION SHALL NOT BE REQUIRED AND THE COURT SHALL ISSUE AN ORDER TO HOLD THE FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION UNTIL EITHER THE PERSON IS NO LONGER PROHIBITED FROM OWNING A FIREARM, RIFLE, OR SHOTGUN OR AMMUNITION OR THE PERSON SELLS OR TRANSFERS OWNERSHIP OF THE FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION TO A LICENSED GUN DEALER.

7. IF ANY OTHER PERSON CLAIMS TITLE TO A FIREARM, RIFLE, OR SHOTGUN OR AMMUNITION SEIZED PURSUANT TO THE WARRANT, THE FIREARM, RIFLE, OR SHOTGUN OR AMMUNITION SHALL BE RETURNED TO THE LAWFUL OWNER.

8. A PERSON WHO IS THE SUBJECT OF A COURT ORDER PURSUANT TO SUBDIVISION THREE OF THIS SECTION MAY SUBMIT ONE WRITTEN REQUEST AT ANY TIME DURING THE EFFECTIVE PERIOD OF THE ORDER FOR A HEARING FOR AN ORDER PERMITTING THE PERSON TO POSSESS, OWN, PURCHASE, OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION. THE REQUEST SHALL BE SUBMITTED IN A FORM AND MANNER AS PRESCRIBED BY THE CHIEF ADMINISTRATOR OF THE COURTS.

S 735.50 REQUEST FOR RENEWAL OF ORDER.

1. IF A LAW ENFORCEMENT AGENCY HAS PROBABLE CAUSE TO BELIEVE THAT A PERSON SUBJECT TO A GUN VIOLENCE RESTRAINING ORDER CONTINUES TO POSE A SIGNIFICANT RISK OF PERSONAL INJURY TO HIMSELF, HERSELF, OR OTHERS BY PURCHASING, OWNING, POSSESSING, OR CONTROLLING A FIREARM, RIFLE, OR SHOTGUN, AND ANY AMMUNITION AT ANY TIME WITHIN SIXTY DAYS PRIOR TO THE ORDER, THE AGENCY MAY INITIATE A REQUEST FOR A RENEWAL OF THE ORDER, SETTING FORTH THE FACTS AND CIRCUMSTANCES NECESSITATING THE REQUEST. THE REQUEST SHALL BE SUBMITTED IN A FORM AND MANNER AS PRESCRIBED BY THE CHIEF ADMINISTRATOR OF THE COURTS.

(A) A HEARING HELD PURSUANT TO THIS SECTION SHALL BE HELD IN SUPREME COURT TO DETERMINE IF A REQUEST FOR RENEWAL OF THE ORDER SHALL BE ISSUED.

(B) THE PERSON NAMED IN THE RESTRAINING ORDER SHALL BE GIVEN WRITTEN NOTICE AND AN OPPORTUNITY TO BE HEARD.

2. AT ANY TIME WITHIN THE SIXTY DAYS PRIOR TO THE ORDER, A JUDGE MAY, UPON HIS OR HER OWN MOTION, OR UPON REQUEST OF ANOTHER PERSON, ISSUE A RENEWAL OF A GUN VIOLENCE RESTRAINING ORDER WHEN THERE IS PROBABLE CAUSE TO BELIEVE THAT A PERSON SUBJECT TO THE ORDER CONTINUES TO POSE A SIGNIFICANT RISK OF PERSONAL INJURY TO HIMSELF, HERSELF, OR OTHERS BY PURCHASING, OWNING, POSSESSING, OR CONTROLLING A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION AFTER WRITTEN NOTICE TO THE PERSON NAMED IN THE RESTRAINING ORDER AND AFTER THE PERSON HAS BEEN GIVEN AN OPPORTUNITY FOR A HEARING.

S 735.60 OFFENSES.

EVERY PERSON WHO PURCHASES, OWNS, POSSESSES, CONTROLS, OR ATTEMPTS TO PURCHASE OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION WITH KNOWLEDGE THAT HE OR SHE IS PROHIBITED FROM DOING SO BY A GUN VIOLENCE RESTRAINING ORDER ISSUED PURSUANT TO SECTIONS 735.20, 735.40

AND 735.50 OF THIS ARTICLE, IS GUILTY OF A CLASS A MISDEMEANOR PURSUANT TO SECTION 265.01 OF THE PENAL LAW AND SHALL BE PROHIBITED FROM PURCHASING, OWNING, POSSESSING, CONTROLLING, OR ATTEMPTING TO PURCHASE OR RECEIVE A FIREARM, RIFLE, OR SHOTGUN AND ANY AMMUNITION FOR A FIVE-YEAR PERIOD, TO COMMENCE UPON THE EXPIRATION OF THE EXISTING GUN VIOLENCE RESTRAINING ORDER.

S 2. Section 265.01 of the penal law is amended by adding a new subdivision 9 to read as follows:

(9) HE OR SHE VIOLATES SUBDIVISION THREE OF SECTION 735.40 OF THE CRIMINAL PROCEDURE LAW.

S 3. This act shall take effect immediately.